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DEC - 6 2007

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY DEPUTY

## UNITED STATES DISTRICT COURT

## SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA, ) Criminal No. 07CR3129-WQH  
11 Plaintiff, ) **FINDINGS AND RECOMMENDATION OF**  
12 v. ) **THE MAGISTRATE JUDGE UPON A**  
13 **PLEA OF GUILTY**  
14 Defendant. )  
15

16 Upon Defendant's request to enter a plea of Guilty pursuant  
17 to Rule 11 of the Federal Rules of Criminal Procedure, this  
18 matter was referred to the Magistrate Judge by the District  
19 Judge, with the written consents of the Defendant, counsel for  
20 the Defendant, and counsel for the United States.

21 Thereafter, the matter came on for a hearing on Defendant's  
22 plea of guilty, in full compliance with Rule 11, Federal Rules of  
23 Criminal Procedure, before the Magistrate Judge, in open court  
24 and on the record.

25 In consideration of that hearing and the allocution made by  
26 the Defendant under oath on the record and in the presence of  
27 counsel, and the remarks of the Assistant United States Attorney,  
28 ///

1       **I make the following FINDINGS - that the Defendant**  
2 **understands:**

- 3       1. the right to persist in a plea of "not guilty";
- 4       2. the right to a speedy and public trial;
- 5       3. the right to be tried by a jury, or the ability to  
6                waive that right and have a judge try the case without  
7                a jury;
- 8       4. the right to the assistance of counsel at trial;
- 9       5. that, at trial, there would be the right to confront  
10               and cross-examine the witnesses against the Defendant;
- 11       6. that, at trial, there is the right to present a  
12               defense, and the right to have witnesses subpoenaed to  
13               testify on the Defendant's behalf;
- 14       7. that, at trial, the Defendant would have the right  
15               against compelled self-incrimination;
- 16       8. the nature of the charge filed in this case;
- 17       9. the maximum possible sentence that could be imposed  
18               (including imprisonment, fine, term of supervised  
19               release, and mandatory special assessment), the effect  
20               of a supervised release term, and that the sentencing  
21               guidelines are only advisory so that the Court may  
22               sentence Defendant up to the statutory maximum;
- 23       10. the terms of the plea agreement;

24 **I further find that:**

- 25       11. that Defendant's plea of guilty is made knowingly and  
26               voluntarily;
- 27       12. the Defendant is competent to enter a plea; and
- 28       13. there is a factual basis for Defendant's plea.

1       I therefore RECOMMEND that the District Judge accept the  
2 Defendant's plea of guilty.

3       The sentencing hearing will be before United States District  
4 Judge WILLIAM Q. HAYES, on FEBRUARY 25, 2008, at 9:00 A.M..

5       Objections to these Findings and Recommendation must be  
6 filed within 14 days of the date of this order.

7

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9       Dated: 12/6/07

  
Honorable WILLIAM McCURINE, JR.  
United States Magistrate Judge

11     Copies to:

12     Hon. WILLIAM Q. HAYES  
U.S. District Judge

13     JAMES MELENDRES  
14     United States Attorney

15     FEDERAL DEFENDERS BY NORMA AGUILAR  
Counsel for Defendant

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